



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AQ54

Veterans Healing Veterans Medical Access and Scholarship Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations that govern scholarships to certain health care providers. This rulemaking would implement the mandates of the VA MISSION Act of 2018 by establishing a pilot program to provide funding for the medical education of eligible veterans who are enrolled in covered medical schools.

DATES: Comments must be received on or before **[insert date 60 days after the date of publication in the FEDERAL REGISTER]**.

ADDRESSES: Written comments may be submitted through www.Regulations.gov; by mail or hand-delivery to: Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1064, Washington, DC 20420; or by fax to (202) 273-9026. (This is not a toll-free telephone number.) Comments should indicate that they are submitted in response to “RIN 2900-AQ54- Veterans Healing Veterans Medical Access and Scholarship Program.” Copies of comments received will be available for public inspection in the Office of Regulation

Policy and Management, Room 1064, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free telephone number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Marjorie A. Bowman, MD, Chief Academic Affiliations Officer, Office of Academic Affiliations (10X1), U.S. Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, Marjorie.Bowman@va.gov, (202) 461-9490. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 6, 2018, section 304 of Public Law 115-182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, established a pilot program that would provide funding for medical education to 18 eligible veterans who enroll in covered medical schools. This is known as the Veterans Healing Veterans Medical Access and Scholarship Program (VHVMASP). For the VHVMASP, the VA MISSION Act of 2018 sets forth the eligibility criteria; the amount and types of available funding; established terms of an agreement to be entered into by the participant; as well as, the consequences for a breach in such agreement. This proposed rule would establish the regulations needed to carry out the VHVMASP. Immediately following title 38 of the Code of Federal Regulations (CFR) 17.612, we would add a new undesignated center heading titled “Veterans Healing

Veterans Medical Access and Scholarship Program” and add new §§ 17.613 through 17.618 as discussed in further detail below.

Section 17.613 Purpose.

Proposed § 17.613 would establish the purpose for §§ 17.613 through 17.618. We would state that the purpose for §§ 17.613 through 17.618 is to establish the requirements for the Veterans Healing Veterans Medical Access and Scholarship Program (VHVMASP). The VHVMASP will provide funding for the medical education of two eligible veterans from each covered medical school. This would be consistent with this requirement in section 304 of the VA MISSION Act of 2018.

Section 17.614 Definitions.

Proposed § 17.614 would establish the definitions for proposed §§ 17.613 through 17.618. We would define “acceptable level of academic standing” as maintaining a cumulative grade point average at or above passing, as determined by the medical school; completing all required courses with a passing grade; successfully completing the required course of study for graduation within four academic years; successfully passing the required United States Medical Licensing Examinations steps 1 and 2, within the timeframe for graduation from medical school; and having no final determinations of unprofessional conduct or behavior.

We would define “covered medical school” to mean any of the following nine schools: Texas A&M College of Medicine, Quillen College of Medicine at East Tennessee State University, Boonshoft School of Medicine at Wright State University,

Joan C. Edwards School of Medicine at Marshall University, University of South Carolina School of Medicine, Charles R. Drew University of Medicine and Science, Howard University College of Medicine, Meharry Medical College, and Morehouse School of Medicine. Consistent with section 304 of the VA MISSION Act of 2018, these institutions would be the only qualifying medical schools that may submit participants for the VHVMASP.

We would define “VA” to mean the Department of Veterans Affairs. We would also define “VHVMASP” to mean the Veterans Healing Veterans Medical Access and Scholarship Program authorized by section 304 of the VA MISSION Act of 2018.

Section 17.615 Eligibility.

Proposed § 17.615 would restate the eligibility criteria of section 304 of the VA MISSION Act of 2018 that a veteran must meet in order to qualify for the VHVMASP. We would state that an eligible veteran is one who: has been discharged or released under conditions other than dishonorable from the Armed Forces for a period of not more than 10 years before the date of application for admission to a covered medical school; would not be concurrently receiving educational assistance under Chapter 30, 31, 32, 33, 34, or 35 of title 38 United States Code or chapter 1606 or 1607 of title 10 United States Code at the time the veteran would be receiving VHVMASP funding; applies for admission to a covered medical school for the entering class of 2020; indicates on the application to the covered medical school that they would like to be considered for the VHVMASP; meets the minimum admissions criteria for the covered

medical school to which the eligible veteran applies; and agrees to the terms stated in proposed § 17.617.

Section 17.616 Award procedures.

Proposed § 17.616 would state how VA would distribute the VHVMASP funds as well as the amount VA would pay to participants while enrolled in the covered school. This would be consistent with the distribution and amount of funds stipulated in section 304 of the VA MISSION Act of 2018. Proposed paragraph § 17.616(a)(1) would state that each covered medical school that opts to participate in the VHVMASP would reserve two seats in the entering class of 2020 for eligible veterans who would receive funds for the VHVMASP. VA would award funds to two eligible veterans with the highest admissions ranking among veteran applicants for such entering class for each covered medical school. The VA MISSION Act of 2018 provided for the eventuality that an eligible veteran would not apply for admissions at a covered medical school. As such, proposed § 17.616(a)(2) would state such eventuality that if two or more eligible veterans do not apply for admission at a covered medical school for the entering class of 2020, VA will distribute the available funding to eligible veterans who applied, and are accepted for admission at other covered medical schools.

Proposed § 17.616(b) would state the funds that an eligible veteran would receive while participating in the VHVMASP would be equal to the actual cost of the following: Tuition at the covered medical school for which the veteran enrolls for a period of not more than 4 years; Books, fees, and technical equipment; Fees associated with the National Residency Match Program; Two away rotations performed during the

fourth year of school at a VA medical facility; and a monthly stipend for the four-year period during which the eligible veteran is enrolled in a covered medical school in an amount to be determined by VA.

Section 17.617 Agreement and obligated service.

As a condition of accepting funds from the VHVMASP, eligible veterans must agree to certain terms in order to continue to receive funds. Section 304 of the VA MISSION Act of 2018 establishes these terms of the agreement and proposed § 17.617(a) would list these terms of agreement between VA and the eligible veteran. The terms of the agreement are: “Maintain enrollment, attendance, and acceptable level of academic standing as defined by the covered medical school; Complete post-graduate training leading to eligibility for board certification in a physician specialty applicable to VA; after completion of medical school and post-graduate training, obtain and maintain a license to practice medicine in a State. Eligible veterans must ensure that State licenses are obtained in a minimal amount of time following completion of residency, or fellowship, if the veteran is enrolled in a fellowship program approved by Veterans Affairs. If a participant fails to obtain his or her degree or fails to become licensed in a State no later than 90 days after completion of residency, or fellowship, if applicable, the participant is considered to be in breach of the acceptance agreement. The participant must serve as a full-time clinical practice employee in VA for a period of four years.

In order to make clear to potential participants when the period of obligated service will commence, we would state in proposed § 17.617(b) that the obligated

service will begin on the date on which the eligible veteran begins full-time permanent employment with VA as a clinical practice employee. VA will appoint the participant to such position as soon as possible, but no later than 90 days after the date that the participant completes his residency, or fellowship, if applicable, or the date the participant becomes licensed in a State, whichever is later. We would also add that VA reserves the right to make final decisions on the location and position of the obligated service. This would allow VA to assign the participants to locations where there is a shortage in the participant's health care specialty. These two clarifications are in alignment with other VA scholarship programs.

17.618 Failure to comply with terms and conditions of agreement.

As previously stated in this rulemaking, section 304 of the VA MISSION Act of 2018 established that the eligible veteran must agree to certain terms to receive funding for the VHVMASP. However, if the eligible veteran breaches this agreement, the United States government is entitled to recover damages "in an amount equal to the total amount of VHVMASP funding received by the eligible veteran." We would state these consequences of the breach of the terms of the agreement in proposed § 17.618(a). In alignment with other VA scholarship programs, we would also state in proposed paragraph § 17.618(b) that the "eligible veteran will pay the amount of damages that the United States is entitled to recover under this section in full to the United States no later than 1 year after the date of the breach of the agreement."

Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule includes provisions constituting new collections of information under the Paperwork Reduction Act of 1995 that require approval by the OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Proposed 38 CFR_17.617 contains a collection of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collection of information as requested, VA will

immediately remove the provision containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to the Director, Office of Regulation and Policy Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1064, Washington, DC 20420; fax to (202) 273-9026; or through www.Regulations.gov. Comments should indicate that they are submitted in response to “RIN 2900-AQ54-Veterans Healing Veterans Medical Access and Scholarship Program.”

OMB is required to make a decision concerning the collections of information contained in this proposed final rule between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if the comment is received within 30 days of publication. This does not affect the 60-day deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;

- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The collections of information contained in 38 CFR 17.617 are described immediately following this paragraph. For the new proposed collection of information below, VA used general wage data from the Bureau of Labor Statistics (BLS) to estimate the respondents' costs associated with completing the information collection. According to the latest available BLS data, the mean hourly wage of full-time wage and salary workers was \$24.34 based on the BLS wage code – "00-0000 All Occupations." This information was taken from the following website:

https://www.bls.gov/oes/current/oes_nat.htm (May 2017).

Title: Veterans Healing Veterans Medical Access and Scholarship Program.

OMB Control No.: 2900-xxxx (new)

CFR Provision: 38 CFR 17.617

Summary of collection of information: The VHVMASP provides funding for the medical education of eligible veterans who enroll in a covered medical school. As part

of the VHVMASP, the eligible veteran agrees to a period of obligated service with VA for a period of no less than 48 months. The information collected under this section would require eligible veterans to sign and submit an agreement between VA and the eligible veteran who accepts funding for the VHVMASP.

Description of the need for information and proposed use of information: The collection of information is necessary to establish an agreement between VA and the eligible veteran, which would hold the eligible veteran accountable for upholding the terms and conditions of the agreement and alert the eligible veteran of the consequences of a breach in the agreement.

Description of likely respondents: Eligible veterans who are accepted for participation in the VHVMASP.

Estimated number of respondents per month/year: 18 per year.

Estimated frequency of responses per month/year: 1 per year.

Estimated average burden per response: 5 hours per response.

Estimated total annual reporting and recordkeeping burden: 90 hours per year.

Estimated cost to respondents per year: VA estimates the total cost to all respondents to be \$2190.60 per year (90 burden hours x \$24.34/hour). Legally, respondents may not pay a person or business for assistance in completing the information collection. Therefore, there are no expected overhead costs for completing the information collection.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking would be exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866, 13563 and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of

legal mandates, the President's priorities, or the principles set forth in this Executive Order."

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is not a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at <http://www.va.gov/orpm> by following the link for VA Regulations Published from FY 2004 through FYTD.

This proposed rule is not expected to be an E.O. 13771 regulatory action because this proposed rule is not significant under EO 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance numbers and titles for this rule.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on April 8, 2019, for publication.

Dated: May 14, 2019.

Consuela Benjamin,

Regulations Development Coordinator,
Office of Regulation Policy & Management,
Office of the Secretary,
Department of Veterans Affairs.

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

PART 17 – MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

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Sections 17.613 through 17.618 are also issued under Pub. L. 115-182, sec. 304.

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2. Add an undesignated center heading immediately following § 17.612 and new §§ 17.613 through 17.618 to read as follows.

VETERANS HEALING VETERANS MEDICAL ACCESS AND SCHOLARSHIP PROGRAM.

17.613 Purpose.

17.614 Definitions.

17.615 Eligibility.

17.616 Award procedures.

17.617 Agreement.

17.618 Failure to comply with terms and conditions of agreement.

VETERANS HEALING VETERANS MEDICAL ACCESS AND SCHOLARSHIP PROGRAM.

§ 17.613 Purpose.

The purpose of §§ 17.613 through 17.618 is to establish the requirement for the Veterans Healing Veterans Medical Access and Scholarship Program (VHVMASP). The VHVMASP will provide funding for the medical education of two eligible veterans from each covered medical school.

§ 17.614 Definitions.

The following definitions apply to §§ 17.613 through 17.618.

Acceptable level of academic standing means maintaining a cumulative grade point average at or above passing, as determined by the medical school; completing all required courses with a passing grade; successfully completing the required course of study for graduation within four academic years; successfully passing the required United States Medical Licensing Examinations steps 1 and 2, within the timeframe for graduation from medical school; and having no final determinations of unprofessional conduct or behavior.

Covered medical school means any of the following:

- (1) Texas A&M College of Medicine.
- (2) Quillen College of Medicine at East Tennessee State University.
- (3) Boonshoft School of Medicine at Wright State University.

(4) Joan C. Edwards School of Medicine at Marshall University.

(5) University of South Carolina School of Medicine.

(6) Charles R. Drew University of Medicine and Science.

(7) Howard University College of Medicine.

(8) Meharry Medical College.

(9) Morehouse School of Medicine.

VA means the Department of Veterans Affairs.

VHVMASP means the Veterans Healing Veterans Medical Access and Scholarship Program authorized by section 304 of the VA MISSION Act of 2018.

§ 17.615 Eligibility.

A veteran is considered eligible to receive funding for the VHVMASP if such veteran meets the following criteria.

(a) Has been discharged or released, under conditions other than dishonorable, from the Armed Forces for not more than 10 years before the date of application for admission to a covered medical school;

(b) Is not concurrently receiving educational assistance under chapter 30, 31, 32, 33, 34, or 35 of title 38 United States Code or chapter 1606 or 1607 of title 10 United States Code at the time the veteran would be receiving VHVMASP funding;

(c) Applies for admission to a covered medical school for the entering class of 2020;

(d) Indicates on the application to the covered medical school that they would like to be considered for the VHVMASP;

(e) Meets the minimum admissions criteria for the covered medical school to which the eligible veteran applies; and

(f) Agrees to the terms stated in § 17.617.

§ 17.616 Award procedures.

(a) Distribution of funds. (1) Each covered medical school that opts to participate in the VHVMASP will reserve two seats in the entering class of 2020 for eligible veterans who receive funds for the VHVMASP. Funding will be awarded to two eligible veterans with the highest admissions ranking among veteran applicants for such entering class for each covered medical school.

(2) If two or more eligible veterans do not apply for admission at a covered medical school for the entering class of 2020, VA will distribute the available funding to eligible veterans who applied, and are accepted, for admission at other covered medical schools.

(b) Amount of funds. An eligible veteran will receive funding from the VHVMASP equal to the actual cost of the following:

(1) Tuition at the covered medical school for which the veteran enrolls for a period of not more than 4 years;

(2) Books, fees, and technical equipment;

(3) Fees associated with the National Residency Match Program;

(4) Two away rotations, performed during the fourth year of school, at a VA medical facility; and

(5) A monthly stipend for the four-year period during which the eligible veteran is enrolled in a covered medical school in an amount to be determined by VA.

§ 17.617 Agreement and obligated service.

(a) Agreement. Each eligible veteran who accepts funds from the VHVMASP will enter into an agreement with VA where the eligible veteran agrees to the following:

(1) Maintain enrollment, attendance, and acceptable level of academic standing as defined by the covered medical school;

(2) Complete post-graduate training leading to eligibility for board certification in a physician specialty applicable to VA;

(3) After completion of medical school and post-graduate training, obtain and maintain a license to practice medicine in a State. Eligible Veterans must ensure that State licenses are obtained in a minimal amount of time following completion of residency, or fellowship, if the Veteran is enrolled in a fellowship program approved by Veterans Affairs. If a participant fails to obtain his or her degree, or fails to become licensed in a State no later than 90 days after completion of residency, or fellowship, if applicable, the participant is considered to be in breach of the acceptance agreement.; and

(4) Serve as a full-time clinical practice employee in VA for a period of four years.

(b) Obligated service. (1) General. An eligible veteran's obligated service will begin on the date on which the eligible veteran begins full-time permanent employment with VA as a clinical practice employee. VA will appoint the participant to such position as soon as possible, but no later than 90 days after the date that the

participant completes residency, or fellowship, if applicable, or the date the participant becomes licensed in a State, whichever is later.

(2) Location and position of obligated service. VA reserves the right to make final decisions on the location and position of the obligated service.

(The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX–XXXX.)

§ 17.618 Failure to comply with terms and conditions of agreement.

(a) Participant fails to satisfy terms of agreement. If an eligible veteran who accepts funding for the VHVMASP breaches the terms of the agreement stated in § 17.617, the United States is entitled to recover damages in an amount equal to the total amount of VHVMASP funding received by the eligible veteran.

(b) Repayment period. The eligible veteran will pay the amount of damages that the United States is entitled to recover under this section in full to the United States no later than 1 year after the date of the breach of the agreement.

[FR Doc. 2019-10251 Filed: 5/20/2019 8:45 am; Publication Date: 5/21/2019]